

### REMARKS

Favorable consideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 3-5, 7 and 8-13 are pending, Claims 2 and 6 having been canceled without prejudice or disclaimer and Claims 8-13 having been added by way of the present amendment. The features of the Claims 2 and 6 have been included in Claim 1 and therefore no new matter is added. Support for new Claims 8-12 is found throughout the specification, for example the eject lever 105 (e.g., page 10), elastic flap 221 (e.g., page 11), recessed portion 61 (e.g., page 11), groove 41 (e.g., page 26), outer housing 302 and control keys 304 (e.g. Figures 23-25). Claim 13 finds support in original Claims 1, 2 and 6, although drafted to avoid construction under 35 U.S.C. §112, sixth paragraph. Therefore no new matter is added.

In the outstanding Office Action the Title was objected to; the Abstract was objected to; Claims 2-5 were rejected under 35 U.S.C. § 112, second paragraph; Claims 1-7 were rejected as being anticipated by Matsuda et al. (U.S. Patent Publication No. 2005/0251816, hereinafter "Matsuda"); Claims 1-3 and 6-7 were rejected as being anticipated by JP 2004-079046; and Claims 1-7 were rejected as being anticipated by Eum (U.S. Patent No. 5,610,890).

In reply the Title has been amended and the Abstract has been amended as requested.

It is believed the amendments made to Claims 1, 3 and 5, bring these claims in full compliance of 35 U.S.C. § 112, second paragraph. However, if the Examiner disagrees the Examiner is invited to telephone the undersigned so that mutually agreeable claim language may be identified.

Amended Claim 1 is directed to a disk recording and/or reproducing apparatus that includes cartridge drop preventative means disposed on a side surface plate of the cartridge

holder. (Non-limiting support for this feature is found, for example, in Fig. 26B.) The apparatus also includes an elastic flap portion provided on a second side wall of the cartridge holder opposite a first side wall facing a reproducing/recording opening portion of the cartridge holder. The elastic flap portion has on a leading edge thereof, a protruded portion that makes sliding contact with the side surface of the disk cartridge. A rear anchor portion of the elastic flap portion is connected to the second side wall, and the leading end of the elastic flap portion is oriented toward the insertion/removing position. Furthermore, the disk cartridge has a side surface formed into an arc on the side of the insertion end.

Non-limiting support for the arrangement contained in amended Claim 1 is found throughout the specification, but for example please refer to the elastic flap 221 provided on a second wall 102b, where the second side wall is opposite to a first side wall (102c) (also see e.g. Figure 3 for example). Furthermore, the disk cartridge has a side surface formed into an arc on the side of the insertion end (see e.g. Figure 1 for example).

These amendments to Claim 1 have been made because it is believed that neither Matsuda, JP 2004-079046, nor Eum teach or suggest an elastic flap as claimed, provided on a wall opposite the wall adjacent to the reproducing/recording opening portion. Furthermore, it is respectfully submitted that none of the references teach or suggest the protruded portion oriented toward the ejection direction. Rather, corresponding protruded portions in each of the three asserted references is provided toward an insert direction of the disk cartridge. Accordingly, it is respectfully submitted that the amendment to Claim 1 patentably defines over each of the three references, Matsuda, JP 2004-079046, and Eum. Therefore, no matter how these references are combined whether taken individually or in combination, the combination does not teach or suggest all of the elements of amended Claim 1.

Each of the other Claims 3-5 and 7-12, as amended, all depend from amended Claim 1 and therefore are also believed to patentably define over the asserted prior art.

Claim 13 corresponds with Claim 1, although drafted to avoid including any means-plus-function claim elements. Therefore it is respectfully submitted that Claim 13 patentably defines over the asserted prior art for at least the same reasons discussed above with regard to amended Claim 1.

Consequently, the present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.


Respectfully submitted,

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